



**AGENDA
LAKE ALFRED CHARTER REVIEW COMMITTEE
THURSDAY, OCTOBER 8, 2020
6:00 PM
CITY HALL**

Call to Order:

Roll Call: City Clerk Ameen Bailey

Recognition of Citizens: Items that are not on the agenda

Agenda

1. Complete text of the *Charter of the City of Lake Alfred, Florida* with suggested amendments through September 22, 2020.
2. Review of standard codification practices for local laws, charters and ordinances, including editors' notes, headings, catchlines, legislative history, additions for clarity and state law references.
3. Member-requested Discussion Topics:
 - (a) Emergency Ordinances – § 2.10, *Charter of the City of Lake Alfred, Fla.*
 - (b) Standards of Ethics – § 5.02, *Charter of the City of Lake Alfred, Fla.*
 - (c) Term Limits – § 2.02, *Charter of the City of Lake Alfred, Fla.*
 - (d) Description of Territorial Limits – § 1.05, *Charter of the City of Lake Alfred, Fla.*
 - (e) Plurality Elections – § 4.05(c), *Charter of the City of Lake Alfred, Fla.*
 - (f) Schedule to Ordinance 967-00 – § 6.05, *Charter of the City of Lake Alfred, Fla.*

Adjourn

**MINUTES
LAKE ALFRED CHARTER
REVIEW COMMITTEE
SEPTEMBER 22, 2020
CITY HALL**

Call to Order: Herb Nigg at 6pm.

Roll Call: City Clerk Ameen Bailey

Members in attendance: Chair Herb Nigg, Vice Chair Brenda Arnold, Member John Duncan, Member Ron Schelfo, and Member Loretta Vittorio.

Staff in attendance: City Manager Ryan Leavengood, Assistant City Attorney Drew Crawford, and City Clerk Ameen Bailey.

Recognition of Citizens: No comments

Chair Nigg suggested that the committee listen to the presentations tonight and make suggestions. Then at the following meeting the committee go through the text page by page including any modifications based on the committee suggestions. He also requested that any citizen concerns brought to staff's attention be placed on the agenda.

Vice Chair Arnold asked about the staff issues addressed a policy.

Assistant City Attorney Crawford reviewed the plan for discussion including the items staff has noticed over the past several years, changes due to state law, and then changes based on the committee suggestions. He stated that one item was related to a political policy and that Florida statutes could be referenced.

Chair Nigg asked if any of the members were planning to run for City Commission.

Vice Chair Arnold and Member Duncan stated they were not running at this time. All other stated they were not planning to run for office.

Member Duncan stated in the last charter review they went page by page and proposed 13 amendments to the charter. He stated the hardest part was educating the public due to the word limitations. He stated no items could be bundled.

AGENDA

1.) Charter Review Meeting Minutes August 27, 2020

Vice Chair Arnold moved to approve of the August 27, 2020 minutes, seconded by **Member Duncan**. A unanimous voice call vote approved the motion.

2.) Presentation: Staff identified Charter Review Items

Assistant City Attorney Crawford provided a few corrections to the first presentation stating the Lake Alfred citizen charter was adopted in 1975. The charter has been amended 18 time and all amendments need to be approved by the citizens.

Assistant City Attorney Crawford lead a discussion regarding several items within the Charter that could be cleaned up, improved, or clarified. Five provisions were identified by staff.

1. Extraordinary Vacancies - § 2.07(d)
2. Validity of Conflicts of Interest - § 2.08(c)
3. Triggering requirements for Ordinances & Resolution - §§ 2.09(d)(1), (3)– (7); § 3.06(b)
4. Registration of Electors - § 4.01
5. Qualifying for Individual Commission Seats

Of the items listed 1, 2, and 4 are ministerial in nature. The change to 3 is designed to reduce administrative/procedural burdens and number 5 is designed to help delineate and remove confusion in municipal elections regarding qualifying for a seat.

Assistant City Attorney Crawford provided examples for extraordinary vacancies and that the charter calls for special election within 60-90 days. It is a tight timeline and suggested that the timeline be extended to 180 days.

The committee concurred with the suggestion and requested proposed language be provided at the next meeting.

Member Duncan asked if 180 days was sufficient for the Polk County Supervisor of Elections office and if the Governor had any authority to appoint someone to the City Commission. He also asked if the charter should reference state statutes.

Assistant City Attorney Crawford stated he had a general discussion to the Elections Office but could ask the specific question. He also confirmed that the Governor would have the ability to respond in an emergency. Staff can also request that Municode reference state statutes.

City Manager Leavengood stated if the impact had a larger scale then there could be executive orders from the Governor as we have seen with Covid.

Member Vittorio asked about the posting requirements and the required five posting locations.

Assistant City Attorney Crawford stated that the requirement for a physical location could be separate locations such as the City Hall, library, administration, etc. The City is still able to utilize a newspaper publication. Electronic notices may be added in the future.

He then continued by discuss conflicts of interests. The Florida Ethics Commission has established what constitutes a conflict, which did not previously exist. The City charter allows the City Commission to determine if someone has a conflict. He suggested removing the provision and allowing conflicts to be determined by state law.

City Manager Leavengood stated the items presented by the City Attorney's Office are not on policy, but rather on liabilities or conflicts with state law. When the committee presents their recommendations to the City Commission, the City Manager will also have a summary document to assist in providing explanations related to the recommendations. T

Member Vittorio asked about bundling amendments.

Assistant City Attorney Crawford stated the ballot language is controlled by Florida Statue and allows for a 15 word title and a 75 word amendment. Therefore, the language has to be crafted carefully to ensure the intent is relayed. Items would have a single subject and not be bundled. If the committee found that there were too many changes the committee could recommend repealing and reinstating the entire charter.

Assistant City Attorney Crawford reviewed ordinances and resolutions and suggested the charter allow the City to make actions through both. Ordinance adoption is cumbersome and requires multiple meetings. General Florida law (SB 50) now requires opportunity for public participation on all matters before formal action and other provisions of the City Charter require advance notice of action be given to the public.

Member Vittorio asked about the different timing requirements.

City Manager Leavengood stated that ordinance require additional cost and timing associated with advertising. In addition, some items that require an ordinance have an impact to operations. Staff can provide the committee with a list of items that require ordinance adoption. State law allows for citations the charter is an administrative code.

Chair Nigg asked if taxes could be increased by resolution without a public hearing.

Assistant City Attorney Crawford stated State statutes will still require some items to be adopted via ordinance or that they have a public hearing process (such as taxes). In addition, an ordinance requires another ordinance to be repealed. He also explained the differences between administrative code and laws. He also reviewed the taxation process including hearings and advertising requirements.

Member Duncan asked about a procedure for adopting a resolution.

Assistant City Attorney Crawford stated the process is included in state laws. The charter requires the publishing of the agenda with the action items.

City Manager Leavengood stated the charter is the long-term base and items are more specifically addresses in the Code of Ordinances.

There was consensus to review draft language at the next meeting.

Assistant City Attorney Crawford stated the charter requires registration with the City to vote. The Florida Elections Code requires the permanent voter registration system to be used in lieu of any municipal registration system. This item was for information only.

City Manager Leavengood stated City election process may cause some confusion since it is the only City in Polk County that allow voters to vote for more than one candidate. Most jurisdictions have assigned seats.

Assistant City Attorney Crawford stated that the staff does not recommend districting.

Chair Nigg stated he liked the current system and win a seat with the least number of votes if there was no opposition.

Member Duncan asked how the ballot counting was handled.

Assistant City Attorney Crawford stated the machine will kink out an under vote and an over vote. Then those ballots need to be reevaluated. The canvassing the board noticed a significant number of under votes during the last election.

The committee needed more time to consider but was willing to review possible language.

3.) Discussion: Committee Items identified for further review

In addition to feedback provided for the staff identified provisions, the Charter Review Committee may wish to identify provisions within the charter or subjects in general that they would like to further review.

City Staff and the City Attorney can provide research, background information, and recommendations to the Committee to assist in vetting different provisions or subjects the Committee is interested in.

An analysis by staff will be drafted on the items identified by the Committee, if any, and be presented at the next meeting. The format will be similar to the staff items presented at this meeting. This will aid the Committee in making an informed decision regarding any recommendations you send to the City Commission.

Vice Chair Arnold asked if hiring practices were a charter item of a City Commission items. She stated she would like to see more diversity in the workforce.

City Manager Leavengood stated the hiring processes are mandated by Florida statues and a management/operational issue. He also wants to hire diversity across the positions within the City since the City wants to promote from existing staff. Some positions are more difficult to hire.

Chair Nigg asked to review emergency ordinances.

Member Vittorio asked about creation and powers, municipal boundaries, acting City Manager, method of resolving ties, and the schedule.

City Manager Leavengood provided some example conditions for appointing an acting City Manager, although with today's technology it is not as necessary.

Member Duncan asked about term limits. He suggested that commissioners should periodically take a year off to allow for others to run for office. If there was a vacancy the City Commission could appoint someone.

Assistant City Attorney Crawford stated he can provide some language although he would recommend against adding term limits. There is also a small pool of talent in Lake Alfred.

Member Schlfo suggested against term limits.

Chair Nigg asked about the cost associated with running an election. However, staff should propose language for consideration at the next meeting.

The committee discussed several dates and times for the next meeting. The next meeting was set for October 8th at 6:00 pm.

With no other business, **Chair Nigg** adjourned the meeting at 7:43 pm.

Respectfully Submitted,

Ameé Bailey
City Clerk

CHARTER OF THE CITY OF LAKE ALFRED, FLORIDA

This is the *Charter for the City of Lake Alfred, Florida*, as adopted by Ordinance Number 516 on September 8, 1975, and by referendum on October 10, 1975. Amendments to the Charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original Charter. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

ARTICLE I. - CREATION AND POWERS

Section 1.01. - Creation and powers.

The municipal corporation now existing and known as the City of Lake Alfred, in Polk County, Florida, be, and the same is hereby abolished, and a new municipality, to be known as the City of Lake Alfred, in Polk County, Florida is hereby created and established to succeed such former municipality

Section 1.02. - Ownership rights of lands and property of former municipality vested in new city.

The title, right and ownership of property, uncollected taxes, dues, claims, judgments, decrees and choices in action, and any and every other property right of any nature whatsoever held or owned by the former municipality of the City of Lake Alfred, shall pass to and be vested in the municipal corporation hereby created and established to succeed such municipality. All valid claims, debts, obligations or rights, including all outstanding bond issues, existing in favor of any person, firm or corporation against said former municipality, shall be valid and binding against the municipality hereby created and established.

Section 1.03. - Ordinances of former municipality valid.

All ordinances of the former municipality of the City of Lake Alfred shall be and remain the ordinances of the City of Lake Alfred hereby organized and established, except insofar as they conflict with this Charter, until altered, modified or repealed by the City Commission of the City of Lake Alfred hereby created and established.

Section 1.04. - Powers.

The City of Lake Alfred, hereby established, shall have all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services, and may exercise any

power for municipal purposes given such municipalities by the Florida Constitution and the laws of the State of Florida.

Section 1.05. - Description of territorial limits.

The following area shall constitute the territorial limits of the City of Lake Alfred, in Polk County, Florida:

[The boundaries of the city are not printed herein, but are on file in the city clerk's office.]

(Ord. No. 641-86, § 2, 9-8-1986; Ord. No. 668-87, § 2, 12-14-1987; Ord. No. 810-97, § 2 (Ex. B), 2-17-1997)

ARTICLE II. - LEGISLATIVE

Section 2.01. - City commission, powers, composition.

There shall be a city commission, with all legislative powers of the city vested therein, consisting of five (5) members.

Section 2.02. - Qualifications.

Any elector of the city who has resided within the city's municipal limits for not less than one full calendar year immediately preceding the first day for qualifying may be eligible to hold the office of the city commissioner. Only those electors of the city who maintain a legal residence within the city's municipal limits shall be eligible to hold the office of city commissioner. The commission shall be the judge of the election and qualifications of its members and of the grounds for forfeiture as described in Section 2.07 of this article.

(Ord. No. 967-00, § 3, 9-11-2000/10-17-2000; Ord. No. 1284-10, § 3, 1-3-2011/4-5-2011)

Section 2.03. - Election and terms.

The regular election of the city commissioners shall be held in the manner provided in article IV of this Charter and shall be for four-year terms.

(Ord. No. 1240-08, § 1, 10-20-2008/4-7-2009)

Section 2.04. - Compensation and expenses.

The commission may determine the annual salary of all commissioners and the mayor by ordinance, but no ordinance increasing such salary shall become effective until the date of commencement of the terms of commissioners elected at the next regular election, provided that such election follows the adoption of such ordinance by at least six (6) months. Commissioners shall receive their actual and necessary expenses incurred in the performance of their duties of office as provided by law.

(Ord. No. 1284-10, § 4, 1-3-2011/4-5-2011)

Section 2.05. - Mayor.

The commission shall elect from among its members a mayor and vice-mayor. Election of the mayor and vice-mayor shall be done annually at the first regular meeting after the city election or if no city election is held at the first regular meeting in May. The mayor shall: Preside at meetings of the commission, and shall be recognized as head of the city government for all ceremonial purposes, by the governor for purposes of military law; for service of process; execution of contracts, deeds and other documents, and as the city official designated to represent the city in all agreements with other governmental entities or certifications to other governmental entities, but shall have no administrative duties except as required to carry out the responsibilities herein. The vice-mayor shall act as mayor during the absence or disability of the mayor.

(Ord. No. 1303-12, § 1, 2-20-2012)

Section 2.06. - Prohibitions.

- (a) *Appointments and removals.* Neither the commission, nor any of its members shall in any manner dictate the appointment or removal of any city administrative officers or employees whom the manager or any of the manager's subordinates are empowered to appoint, but the commission may express its views and fully and freely discuss with the manager anything pertaining to appointment and removal of such officers and employees.
- (b) *Interference with administration.* Except for the purpose of inquiries and investigations, the commission or its members shall deal with city officers and employees who are subject to the direction and supervision of the manager solely through the manager, and neither the commission nor its members shall give orders to any such officer or employee, either publicly or privately. Nothing in the foregoing is to be construed to prohibit individual members of the commission from closely scrutinizing, by questions and personal observation, all aspects of city government operations so as to obtain independent information to assist such members in the formulation of sound policies to be considered by the commission. It is the express intent of this Charter, however, that

recommendations for the improvement in city governmental operations by individual commissioners be made to and through the city manager, so that the manager may coordinate efforts of all city departments to achieve the greatest possible savings through the most efficient and sound means available.

- (c) *Holding other office.* No former elected city official shall hold any compensated appointive city office or employment until one year after the expiration of the term for which he was elected.

(Ord. No. 967-00, § 4, 9-11-2000/10-17-2000)

Section 2.07. - Vacancies; forfeiture of office; filling of vacancies.

- (a) *Vacancies.* The office of a commissioner shall become vacant upon their death, resignation, removal from office in any manner authorized by law or forfeiture of their office, such forfeiture to be declared by the remaining members of the commission.
- (b) *Forfeiture of office.* A commissioner shall forfeit their office if that commissioner:
 - (1) Lacks, at any time during their term of office, any qualification for the office prescribed by this Charter or by law; or
 - (2) Violates any standard of conduct or code of ethics established by law for public officials, such violation to be determined by remaining members of the commission.

A member charged with conduct constituting grounds for forfeiture of his or her office shall be entitled to a public hearing on demand, and notice of such hearing shall be published in one or more newspapers of general circulation in the city at least one week in advance of the hearing.

- (c) *Filling of vacancies.* In the event the office of a city commissioner becomes vacant for any cause, the remaining members of the commission, by their majority vote, shall fill the vacancy by the appointment of any qualified person to the office to fill out the vacancy until the next regular city election or, provided there is no regular city election scheduled within the next twelve (12) months, until the following April at which time a special election shall be held to fill the office.
- (d) *Extraordinary vacancies.* In the event that all members of the commission are removed by death, disability, or forfeiture of office, the governor shall appoint an interim commission that shall call a special election to be held ~~not sooner than sixty (60) days, nor more than ninety (90)~~ within one hundred eighty (180)

days following the occurrence of the vacancy. In the event that a primary election is necessary, it shall be scheduled two (2) weeks prior to the special election. At such special election, all five (5) commissioners shall be elected; the two (2) candidates receiving the greatest number of votes shall serve for terms of four (4) years; the two (2) candidates receiving the next highest number of votes shall serve for three (3) years; and the candidate receiving the next highest number of votes shall serve for a term of two (2) years. Thereafter, all elections shall be for terms of four (4) years, to succeed the commissioners whose terms expire immediately following said election.

- (e) *Absences.* Absences from four (4) consecutive regular meetings of the commission shall operate to vacate the seat of a member, unless such absence is excused by the commission by resolution setting forth the facts of such excuse duly entered upon the journal.

(Ord. No. 967-00, § 5, 9-11-2000/10-17-2000; Ord. No. 1284-10, §§ 3, 5, 1-3-2011/4-5-2011)

Section 2.08. - Procedure.

- (a) *Meetings.* The commission shall meet regularly at least once in every month, at such times and places as the commission may prescribe by rule. Special meetings may be held on the call of the mayor, or of a majority of the members and, whenever practicable, upon no less than forty-eight (48) hours notice to each member and the public. All meetings shall be public.
- (b) *Rules and journal.* The commission shall determine its own rules of order and shall adopt said rules by resolution. Said rules, and amendments by resolution to said rules, shall be made available to the public. The city manager shall compile the agenda for each commission meeting. The mayor shall set the order of business for each meeting. The agenda shall be made available to the public not less than five (5) days prior to each regular meeting and not less than forty-eight (48) hours, whenever practicable, prior to each special meeting.
- (c) *Voting.* Voting, on ordinances and resolutions, may be by either roll call or voice vote at the preference of the presiding officer and shall be recorded in the journal, provided that any commissioner may order that votes be cast on an ordinance or resolution by roll call by requesting the same of the presiding officer. A majority of the commission shall constitute a quorum; but a smaller number may adjourn from time to time and may compel the attendance of absent members in the manner and subject to the penalties prescribed by the rules of the commission. Each member of the commission present shall be required to vote on each matter coming before the commission for vote, except that a member may abstain only in the event of conflict of interest, in which

case the circumstances of such conflict shall be stated and entered upon the journal. ~~Validity of such conflict shall be subject to determination by the remaining members of the commission, and if said members find the statement of conflict invalid, the member shall be required to vote.~~ No action of the commission, except as otherwise provided in the preceding sentence and in section 2.07, shall be valid or binding unless adopted by the affirmative vote of the majority of a quorum present.

(Ord. No. 976-00, § 6, 9-11-00/10-17-2000; Ord. No. 1248-09, § 1, 2-2-2009/4-7-2009; Ord. No. 1284-10, § 6, 1-3-2011/4-5-2011)

Section 2.09. - Ordinances and resolutions in general.

"Ordinance" means an official, legislative action of the commission, which action is a regulation of a general and permanent nature and enforceable as a local law.

"Resolution" means an expression of the commission concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the city.

- (a) *Form.* Each ordinance or resolution shall be introduced in writing and shall embrace but one subject and matters properly connected therewith. The subject shall be clearly stated in the title. No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act, section, subsection or paragraph of a section or subsection.
- (b) *Procedure for ordinance adoption.* A proposed ordinance, other than an emergency ordinance, shall be read by title, or in full, on at least two (2) separate days, at either regular or special meetings of the commission, and shall, at least ten (10) days prior to adoption, be noticed once in a newspaper of general circulation in the city. The notice or proposed enactment shall state the date, time and place of the meeting; the title or titles of proposed ordinances, and the place or places within the city where such proposed ordinances may be inspected by the public. Said notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.
- (c) *Effective date.* Except as otherwise provided in this Charter, every adopted ordinance shall become effective ten (10) days after adoption or as otherwise specified therein.
- (d) *Action requiring ~~an~~ a formal ordinance or resolution.* In addition to other acts required by law or by specific provisions of this Charter to be done by ordinance

or resolution, those acts of the city commission shall be by ordinance or resolution which:

- (1) Adopt or amend an administrative code or establish, alter or abolish any city department or agency;
- (2) Establish a rule or regulation, the violation of which carries a penalty;
- (3) Levy taxes authorized by general law;
- (4) Grant, renew or extend a franchise;
- (5) Set service or user charges for municipal services or granting administrative authority for such charges;
- (6) Authorize the borrowing of money not inconsistent with the limitations in the constitution and general law of the state; or
- (7) Convey or lease or authorize by administrative action the conveyance or lease of any lands of the city.;

~~(8)~~

(e) Amendment or repeal. The commission must adopt an ordinance to amend Amend or repeal any ordinance previously adopted and may adopt an ordinance or resolution to amend or repeal any resolution previously adopted, except as otherwise provided in article V, with respect to repeal of ordinances reconsidered under the referendum power.

(Ord. No. 1059-04, § 1, 1-19-2004/4-6-2004)

Section 2.10. - Emergency ordinances.

To meet a public emergency affecting life, health, property or the public peace, the commission may adopt one or more emergency ordinances; but such ordinances may not levy taxes, grant, renew or extend a franchise, set service or user charges for any municipal services, or authorize the borrowing of money except as provided under the emergency appropriations provisions of this Charter.

- (a) *Form.* An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly designated in a preamble as an emergency ordinance and shall contain, after the enacting clause, a declaration stating that an emergency exists and describing it in clear and specific terms.

- (b) *Procedure.* An emergency ordinance may be adopted with or without amendment or rejected at the meeting at which it is introduced, but the affirmative vote of at least two-thirds of all the commission shall be required for adoption. In this Charter, the term two-thirds shall be interpreted to mean four (4) of the five (5) members of the commission. After its adoption, the ordinance shall be published and printed as prescribed for other adopted ordinances.
- (c) *Effective date.* Emergency ordinances shall become effective upon adoption or at such other date as may be specified in the ordinance.
- (d) *Repeal.* Every emergency ordinance except emergency appropriations shall automatically stand repealed as of the sixty-first day following the date on which it was adopted, but this shall not prevent reenactment of the ordinance under regular procedures, or if the emergency still exists, in the manner specified in this section. An emergency ordinance may also be repealed by adoption of a repealing ordinance, in the same manner specified in this section for adoption of emergency ordinances.
- (e) *Emergency appropriations.* The commission may make emergency appropriations in the manner provided in this section. To the extent that there are no available unappropriated revenues to meet such appropriations, the commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time; but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

Section 2.11. - Budget adoption.

The commission shall by ordinance adopt the budget on or before the thirtieth day of September of each year. If it fails to adopt the budget by this date, the commission by resolution may direct that the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year for a period of fifteen (15) days and renewed by resolution each fifteen (15) days with all items in it prorated accordingly, until such time as the commission adopts a budget for the ensuing fiscal year. An ordinance adopting an annual budget shall constitute appropriations of the amounts specified therein as expenditures from the funds indicated.

State Law reference— Procedure for adoption of budget, F.S. § 200.065.

Section 2.12. - Appropriation amendments during the fiscal year.

- (a) *Supplemental appropriations.* If during the fiscal year revenues in excess of those estimated in the budget are available for appropriation, the commission by ordinance may make supplemental appropriations for the year up to the amount of such excess.
- (b) *Reduction of appropriations.* If at any time during the fiscal year it appears to the manager that the revenues available will be insufficient to meet the amount appropriated, he shall report such information to the commission without delay, indicating the estimated amount of the deficit, any remedial action taken by him and his recommendations as to any other steps to be taken. The commission shall then take such further action as it deems necessary to prevent or minimize any deficit and for that purpose it may by ordinance reduce one or more appropriations.
- (c) *Limitations; effective date.* No appropriation for debt service may be reduced or transferred, and no appropriation may be reduced below any amount required by law to be appropriated or by more than the amount of the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

Section 2.13. - Annual audit required.

An annual audit of the city's financial operations shall be conducted by a certified public accounting firm chosen by, and reporting to, the city commission.

State Law reference— Annual audit required, F.S. §§ 166.241, 218.32.

Section 2.14. - Financial prohibitions.

- (a) The levying of a general sales tax is expressly prohibited without a referendum, but a tax upon utilities regulated by general law and operating within the boundaries of the city may be levied.
- (b) The levying of a tax by the city upon the income of its citizens is expressly prohibited without a referendum.
- (c) The rates charged by the city for utility services provided to the residents entirely by the city shall be not more than the cost of providing utility services. The cost of providing such services shall be determined in accordance with good accounting practice and shall not exclude the establishment of reserve funds for expansion, maintenance, replacement of equipment and such other reasonable costs as are considered necessary in good accounting practice.

(Ord. No. 874-99, § 1, 7-19-99)

Section 2.15. - Authentication, recording and disposition of Charter amendments, ordinances and resolutions.

- (a) *Authentication.* The mayor and the city clerk shall authenticate by their signatures all ordinances and resolutions adopted by the commission. In addition, when Charter amendments have been approved by the electors, the mayor and the city clerk shall authenticate by their signatures the Charter amendment, such authentication to reflect the approval of the Charter amendment by the electorate.
- (b) *Recording.* The city clerk shall keep properly indexed books in which shall be recorded, in full, all ordinances and resolutions passed by the commission. Ordinances shall, at the direction of the commission, be periodically codified. The city clerk shall also maintain the city Charter in current form and shall enter all Charter amendments and send a copy of the revised Charter incorporating amendments to the secretary of state's office.
- (c) *Printing.* The commission shall, by ordinance, establish procedures for making all resolutions, ordinances, technical codes adopted by reference, and this Charter, available to the people of the city for public inspection and available for purchase at a reasonable price.

ARTICLE III. - ADMINISTRATIVE

Section 3.01. - City manager.

There shall be a city manager, who shall be the chief administrative officer of the city. The city manager shall be responsible to the commission for the administration of all city affairs placed in his or her charge by or under this Charter.

(Ord. No. 967-00, § 7, 9-11-2000/10-17-2000)

Section 3.02. - [City manager;] appointment; removal; compensation.

- (a) *Appointment.* The commission shall appoint a city manager for an indefinite term by a majority vote of all the commissioners. The city commission will enter into a written agreement with the city manager.
- (b) *Removal.* The commission may remove the manager by a majority vote of all the commission members.

- (c) *Compensation.* The compensation of the manager shall be fixed by the commission.

(Ord. No. 967-00, § 8, 9-11-2000/10-17-2000; Ord. No. 1284-10, § 7, 1-3-2011/4-5-2011)

Section 3.03. - Acting city manager.

By notification filed with the commission, the manager shall designate, subject to approval of the commission, a qualified city administrative officer to exercise the powers and perform the duties of manager during his or her temporary absence or disability and assume the title of acting city manager. For purposes of this provision, the applicable time period for temporary absence or disability is defined as a three or more consecutive business days, but no longer than fifteen consecutive business days. In the case of a vacancy because of disability, death, resignation, or termination of the city manager the commission shall designate an acting city manager until such time as a permanent replacement is appointed.

(Ord. No. 967-00, § 9, 9-11-2000/10-17-2000; Ord. No. 1284-10, § 8, 1-3-2011/4-5-2011)

Section 3.04. - Powers and duties of the city manager.

The city manager shall:

- (a) Appoint and, when deemed necessary for the good of the city, suspend or remove all city employees and appointive administration officers provided for by or under this Charter, except as otherwise provided by law, this Charter, or personnel rules adopted pursuant to this Charter. The city manager may authorize any administrative officer who is subject to his or her direction and supervision to exercise these powers with respect to subordinates in that officer's department, office or agency.
- (b) Direct and supervise the administration of all departments, offices and agencies of the city, except as otherwise provided by this Charter or by law.
- (c) Attend all commission meetings, except when excused by the city commission, and shall have the right to take part in discussion but may not vote.
- (d) See that all laws, provisions of this Charter and acts of the commission, subject to enforcement by the manager or by officers subject to his or her direction and supervision, are faithfully executed.

- (e) Prepare and submit the annual budget, and capital program to the commission in a form provided by ordinance; make the annual budget and capital program proposals readily available to the general public; prepare for the general public and the commission a readily understandable popular summary of the budget and capital program; and publicize the availability of such popular summary and the budget and capital program to the general public, stating the location and times during which such budget, capital program and popular summary will be available for public inspection.
- (f) Submit to the commission and make available to the public a complete financial report of the city at the end of each fiscal year.
- (g) Make such other reports as the commission may require concerning the operations of city departments, offices and agencies subject to the city manager's direction and supervision.
- (h) Keep the commission fully advised as to the financial condition and future needs of the city, and make such recommendations to the commission concerning the affairs of the city.
- (i) Subject to commission approval, sign contracts on behalf of the city pursuant to the provisions of appropriations ordinances.
- (j) Appoint a city clerk, who shall give notice of commission meetings, keep the journal of its proceedings and perform such other duties as the city manager may direct.
- (k) Perform such other duties as are specified in this Charter or may be required by the commission.

(Ord. No. 967-00, § 10, 9-11-2000/10-17-2000; Ord. No. 1284-10, § 9, 1-3-2011/4-5-2011)

Section 3.05. - [City manager;] supervision of departments.

Except as otherwise provided in this Charter or by general law, the city manager will be responsible for the supervision and direction of all departments, agencies or offices of the city. All departments, offices and agencies under the direction and supervision of the manager shall be administered by an officer appointed by and subject to the direction and supervision of the manager. Except for the finance department and the office of City Clerk, the manager may serve as the head of one or more such departments, offices or agencies or may appoint one person as the head of two (2) or more of them.

(Ord. No. 967-00, § 11, 9-11-2000/10-17-2000; Ord. No. 1284-10, § 10, 1-3-2011/4-5-2011)

Section 3.06. - Personnel system.

- (a) *Merit principle.* All appointments and promotions of city officers and employees shall be made solely on the basis of merit and fitness demonstrated by examination or other evidence of competence.

- (b) *Personnel rules.* The city manager or his or her designee shall prepare personnel rules. The rules shall be proposed to the commission, and the commission shall by ordinance or resolution adopt them with or without amendment. These rules shall provide for:
 - (1) The classification of all city positions, based on the duties, authority and responsibility of each position, with adequate provision for reclassification of any position whenever warranted by changed circumstances;
 - (2) A pay plan for all city positions;
 - (3) Methods for determining the merit and fitness of candidates for appointment or promotion;
 - (4) The policies and procedures regulating reduction in force and removal of employees;
 - (5) The hours of work, attendance regulations and provisions for sick and vacation leave;
 - (6) The policies and procedures governing persons holding provisional appointments;
 - (7) The policies and procedures governing relationships with employee organizations;
 - (8) Policies regarding in-service training programs;
 - (9) Grievance procedures, including procedures for the hearing of grievances;
 - (10) Other practices and procedures necessary to the administration of the city personnel system.

(Ord. No. 967-00, § 12, 9-11-2000/10-17-2000; Ord. No. 1284-10, § 11, 1-3-2011/4-5-2011)

Section 3.07. - City attorney.

There shall be a city attorney, appointed by the commission, who shall serve as chief legal adviser to the commission, the manager and all city departments, offices and agencies, shall represent the city by written agreement in legal proceedings, shall advise the city commission on all legal matters, and shall perform any other duties prescribed by this Charter or by ordinance.

(Ord. No. 967-00, § 13, 9-11-2000/10-17-2000; Ord. No. 1284-10, § 12, 1-3-2011/4-5-2011)

Section 3.08. - Administrative code.

The manager shall develop and keep current an administrative code for the purpose of implementing ordinances passed by the commission.

ARTICLE IV. - NOMINATIONS AND ELECTIONS

Section 4.01. - Electors.

Any person who is a resident of the city, who has qualified as an elector of this state, and who registers in the procedural manner prescribed by general law and ordinance of the city, shall be an elector of the city.

State Law reference— Elector qualifications, F.S. §§ 97.041, 166.032.

Section 4.02. - Nonpartisan elections.

All nominations and elections for the office of city commissioner shall be conducted on a nonpartisan basis without regard for or designation of political party affiliation of any nominee on any nomination petition or ballot.

Section 4.03. - Nominations for city commission.

- (a) Candidates for election to the city commission may be nominated by petition. Any qualified elector of the city may be nominated for election by a petition signed by not less than one (1) per cent of the number of qualified electors of the city as of the day before the first day for qualifying. Candidates for election who fulfill the petition requirements under Florida Statute 99.0955 are excluded from paying a qualifying fee, otherwise a qualifying fee will be charged as prescribed by State Election Laws. Each elector may subscribe to one nominating petition for each of the places to be filled, and no more. The form of nominating petitions and procedures for proper execution thereof shall be

determined by the city clerk and published in the clerk's office not less than ninety (90) days before the first day for qualifying.

- (b) All separate papers comprising a nominating petition shall be assembled and filed with the city clerk as one instrument not earlier than fifty (50) days or later than forty-six (46) days before the election. The city clerk shall make record of the exact time and date when each petition is filed.
- (c) After the filing of the nominating petition the City Clerk shall notify the candidate no later than the forty-third (43) day prior to the election whether or not it satisfies the requirements prescribed by this charter.
- (d) Any person whose name has been submitted for candidacy by such petition shall file with the city clerk, not earlier than fifty (50) days or later than forty-six (46) days before the election, a signed acceptance of such candidacy. The acceptance shall state that, if elected, he or she will qualify and serve in such office during the term for which he or she is elected. The city clerk shall note thereon the exact time and date of its filing. If any candidate shall fail to file such signed acceptance, the candidate's name shall not appear upon the ballot.
- (e) Procedure for election by write-in vote. Any person seeking election to the city commission by write-in vote, in order to be entitled to have write-in votes cast for him or her counted, shall have not less than forty-six (46) days prior to the general election, certified under oath to the city clerk, the following information:
 - (1) Name.
 - (2) Address.
 - (3) That he or she possesses all of the qualifications required by law for the office of city commission.
 - (4) The name of the office he or she seeks.
 - (5) That he or she will accept the office if elected.

At the time of certifying under oath the above information, a write-in candidate shall be considered a candidate as so defined in this Charter, except that he or she shall not be entitled to have his or her name printed on the official ballot.

- (f) Candidates for city commission to designate race for individual seat at time of qualification. No later than forty-six (46) days prior to the general election, each candidate for city commission shall file with the city clerk a form designating which commission seat the candidate desires to run for. The city

clerk shall note thereon the exact time and date of its filing. If any candidate shall fail to file such form designating which seat the candidate desires to run for, the candidate's name shall not appear upon the ballot.

(Ord. No. 563, § 1, 9-27-1979/10-16-1979; Ord. No. 967-00, § 14, 9-11-2000/10-17-2000; Ord. No. 1040-03, § 1, 9-2-2003; Ord. No. 1284-10, § 13, 1-3-2011/4-5-2011; Ord. No. 1340-14, § 3, 11-3-2014; Ord. No. 1341-14, § 3, 11-3-2014)

Section 4.04. - Form of ballots.

- (a) *City commission.* The full names of all candidates nominated for membership in the city commission except those who have withdrawn, died or become ineligible, shall be printed on the official ballots without party designation or symbol and sorted by seat number into separate races. If two (2) or more candidates have the same surname or surnames so similar as to likely cause confusion, their residence addresses shall be printed with their names on the ballot. All names shall be printed in alphabetical order. The ballot shall contain instruction to the voter, the wording of which shall be established by ordinance of the commission, directing the voter to vote for as many candidates as there are places to be filled.
- (b) *Charter amendment or other measure.* A Charter amendment or other measure to be voted on by the electors of the city shall be presented for voting by ballot title. The ballot title of a measure may differ from its legal title and shall be a clear, concise statement describing the substance of the measure without argument or prejudice. Below the ballot title shall appear the following question: "Shall the above described (ordinance) (amendment) be adopted?" Immediately below shall appear in the following order, the word "for" and also the word "against" with a sufficient blank space thereafter for the placing of the symbol "X" to indicate the voter's choice or with a level opposite "for" or "against" if voting machines are used.

Section 4.05. - Elections.

- (a) *When held; transition schedule to four-year terms.* Regular city election shall be held on the first Tuesday in April of each year. Upon approval of this provision by the voters of the city in the 2009 city election, candidates for commissioner elected to seats 3 and 4 under the previous version of section 4.05(a) of this Charter shall fill seats 3 and 4 for a four-year term to expire in 2013. At the 2010 city election, seat 5 shall be filled for a four-year term to expire in 2014. At the 2011 city election, seats 1 and 2 shall be filled for a four-year term to expire in 2015. Subsequently, seats shall become vacant at four-year intervals. Commissioners occupying office at the time of approval of this provision by the

voters of the city shall be entitled to continue in office until seats become vacant in accordance with this section.

- (b) *Number of votes.* Every voter shall be entitled to vote for ~~as many candidates~~ one candidate in each race for an open seat on the city commission ~~as there are seats to be filled~~. Unless otherwise qualified as provided in this Charter, votes cast for a write-in candidate shall not be counted. Should a qualified candidate run for an open seat without opposition ~~the number of qualified candidates for the city commission at any election equal the number of seats to be filled at such election~~, such candidate ~~or candidates~~ shall be declared elected by a majority vote of the city commission.
- (c) *Plurality.* Candidates for commissioner receiving a plurality of the votes cast in each race shall be declared elected ~~until the number declared elected equals the number of commission places to be filled at the election~~. A candidate who receives a plurality of the votes cast is the candidate who receives the greatest number of votes. ~~The terms for each commission place being filled at each election shall be filled such that the candidate receiving the largest number of votes regardless of whether the candidate was running for election based on an appointment arising as a result of a vacancy in office shall fill the longest term open for that election and so on until all commission places are filled. Provided further if there is no opposition for a particular commission place seat then the candidate who runs unopposed shall remain in the same commission place seat.~~ All ties shall be decided by a drawing of lots in accordance with procedures established by Ordinance of the City Commission between the candidates who receive the same number of votes to determine which candidate is elected and the drawing of lots shall be under the direction of the election authorities.
- (d) *[Assuming office.]* All commissioners and officers elected under this charter shall assume their offices on the first regular commission meeting in May following the election at which they shall be chosen.

(Ord. No. 562, § 1, 9-27-1979/10-16-1979; Ord. No. 776-96, § 1, 9-9-1996/10-15-1996; Ord. No. 967-00, § 15, 9-11-2000/10-17-2000; Ord. No. 1025-02, § 1, 9-25-2002/11-5-2002; Ord. No. 1040-03, § 2, 9-2-2003; Ord. No. 1180-07, § 1, 1-16-2007; Ord. No. 1240-08, § 1, 10-20-2008/4-7-2009; Ord. No. 1342-14, § 3, 11-3-2014)

ARTICLE V. - GENERAL PROVISIONS

Section 5.01. - Charter amendment.

This Charter may be amended in two (2) ways:

- (a) *Initiation by ordinance.* The commission may, by ordinance, propose amendments to any part or all of this Charter, except article I prescribing boundaries, and upon passage of the initiating ordinance shall place the proposed amendment to a vote of the electors at the next general election held within the city or at a special election called for such purpose. Amendment of section 1.05 resulting from annexation done in accordance with general law shall be by ordinance of the commission and shall not be subject to a vote of the electors except as provided by general law.
- (b) *Initiation by petition.* The electors of the city may propose amendments to this Charter by petition signed by at least ten (10) percent of the total number of qualified voters registered to vote in the last regular city election.
 - (1) *Form and content.* All papers of a petition shall be uniform in size and style and shall be assembled as one instrument for filing. Each signature shall be executed in ink or indelible pencil and shall be followed by the address of the person signing. Petitions shall contain or have attached thereto throughout their circulation the full text of the proposed Charter amendment.
 - (2) *Affidavit of circulator.* Each paper of a petition shall have attached to it when filed an affidavit executed by the circulator thereof stating that he or she personally circulated the paper, the number of signatures thereon, that all signatures were affixed in his or her presence, that he or she believes them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the proposed amendment.
 - (3) *Certification of petition.* Upon certification of the sufficiency of the petition by the city clerk, such certification to include the validity of the names on the petition as qualified voters registered to vote in the last regular city election, the commission shall place the proposed amendment to a vote of the electors at the next general election held not less than sixty (60) days after certification or at a special election called for such purpose.

(Ord. No. 967-00, § 16, 9-11-2000/10-17-2000)

State Law reference— Procedure for amending charters, F.S. § 166.031.

Section 5.02. - Standards of ethics.

All elected officials and employees of the city shall be subject to the standards of conduct for public officers and employees set by general law. In addition, the commission may, by ordinance, establish a code of ethics for officials and employees

of the city which may be supplemental to general law but in no case may an ordinance diminish the provisions of general law.

State Law reference— Code of ethics, F.S. § 112.311 et seq.

Section 5.03. - Penalties.

Violations of ordinances shall be punishable in accordance with the uniform fines and penalties set by general law.

State Law reference— Penalty for violation of ordinances, F.S. § 162.21.

Section 5.04. - Charter review.

Every ten years in conjunction with the decennial national census, the city commission shall appoint a committee to review the Charter. The committee will provide input and present recommendations to the city commission regarding suggested amendments and revisions to the Charter.

(Ord. No. 1284-10, § 14, 1-3-2011/4-5-2011)

ARTICLE VI. - TRANSITION SCHEDULE

Section 6.01. - Continuation of former charter provisions.

All provisions of Laws of Florida ch. 12958 (1927), as amended by Laws of Fla. chs. 14160 (1929), 19924 (1939), 2915 (1953), and 57-1476, which are not embraced herein and which are not inconsistent with this Charter, shall become ordinances of the city subject to modification or repeal in the same manner as other ordinances of the city.

Section 6.02. - Ordinances preserved.

All ordinances in effect upon the adoption of this Charter, to the extent not inconsistent with it, shall remain in force until repealed or changed as provided herein.

Section 6.03. - Rights of officers and employees.

Nothing in this Charter except as otherwise specifically provided shall affect or impair the rights or privileges of persons who are city officers or employees at the time of adoption. Elected officers shall continue to hold their offices and discharge the duties thereof until their successors are elected.

Section 6.04. - Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the city shall continue, except as modified pursuant to the provisions of this Charter.

Section 6.05. - Schedule.

- (a) *First election.* At the time of its adoption, this Charter shall be in effect to the extent necessary in order that the first election of members of the city commission may be conducted in accordance with the provisions herein. The first election shall be held on the first Tuesday after the first Monday in November, 2001. The city commission elected under the former Charter shall prepare and adopt by resolution temporary regulations applicable only to the first election and designed to ensure its proper conduct and to prevent fraud. All commissioners and officers elected under this Charter shall assume their offices on the first regular meeting in December following the election at which they were chosen.
- (b) *Time of taking full effect.* This Charter shall be in full effect for all purposes on and after the first day of January, 2001.
- (c) *First commission meeting.* On the first regular meeting in December of each year following the election of commission members under this Charter, the newly elected members of the commission shall meet at 7:30 p.m. at Lake Alfred City Hall and shall organize in accordance with the provisions of article II of this Charter.

(Ord. No. 967-00, § 17, 9-11-2000/10-17-2000)

Section 6.06. - Deletion of obsolete schedule items.

The commission shall have power, by resolution, to delete from this article VI any section, including this one, when all events to which the section to be deleted is or could become applicable have occurred.

(Ord. No. 967-00, § 18, 9-11-2000/10-17-2000)

CHARTER COMPARATIVE TABLE ORDINANCES

This table shows the location of the sections of the basic Charter and any amendments thereto.

Ordinance Number	Adopted Date	Election Date	Section	Section this Charter
562	9-27-1979	10-16-1979	1	4.05
563	9-27-1979	10-16-1979	1	4.03
641-86	9- 8-1986		2	1.05
668-87	12-14-1987		2	1.05
776-96	9- 9-1996	10-15-1996	1	4.05
810-97	2-17-1997		2 (Ex. B)	1.05
874-99	7-19-1999		1	2.14
967-00	9-11-2000	10-17-2000	3	2.02
			4	2.06
			5	2.07
			6	2.08
			7	3.01
			8	3.02
			9	3.03
			10	3.04
			11	3.05
			12	3.06
			13	3.07
			14	4.03
			15	4.05
			16	5.01
			17	6.05
			18	6.06
1025-02	9-25-2002	11- 5-2002	1	4.05(c)
1040-03	9- 2-2003		1	4.03(b), (c)

			2	4.05(a), (d)
1059-04	1-19-2004	4- 6-2004	1	2.09(b)
1180-07	1-16-2007	4- 3-2007	1	4.05(c)
1240-08	10-20-2008	4- 7-2009	1	2.03, 4.05(a)
1248-09	2- 2-2009	4- 7-2009	1	2.08(c)
1284-10	1- 3-2011	4- 5-2011	3	2.02
				2.07(b)
			4	2.04
			5	2.07(c)
			6	2.08(c)
			7	3.02(b)
			8—10	3.03—3.05
			11	3.06(b)
			12	3.07
			13	4.03(a)
			14 Added	5.04
1303-12	2-20-2012		1	2.05
1340-14	11- 3-2014		3	4.03(d)
1341-14	11- 3-2014		3	4.03(e)
1342-14	11- 3-2014		3	4.05(c)